

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600
(www.mo.co.md.us/council/board/html)**

WORKSESSION ADDENDUM MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, July 31, 2002, 9:00 A.M.

ACTION CALENDAR:

1. **Order Extending Time for the Board's Written Opinion** for 30-days is required in the following case:

A-5750, Petition of Thomas A. and H. G. Lohm (a carport). Hearing held 5/8/02.

Action: Granted Order Extending Time, DLB/LLM, 5-0.

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz

Staff

Sherry Glazer, Assistant County Attorney
Katherine Freeman, Executive Secretary to the Board
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WORKSESSION MINUTES

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Wednesday, July 31, 2002, 9:00 A.M.

ACTION CALENDAR:

1. **Minutes**, July 10 and 24, 2002 Worksessions.

Action: Approved as amended, (AMC/AIF, 5-0).

2. **A-5777, Appeal of David M. and Patricia Sims** (Department of Permitting Services – Issuance of Building Permit No. 269479). Motion to Dismiss from Malcolm F. Spicer, Jr., Assistant County Attorney.

Action: Deferred Motion to Dismiss until the public hearing, consensus.

3. **CBA-1174-C, Petition of Holton-Arms School, Inc.** (private educational institution). Letters to the Board from Jody S. Kline, Esquire, requesting an administrative modification.

Action: Granted administrative modification, (LLM/DLB, 5-0).

4. **CBA-1544 [CBA-1544-A], Petition of Four Corners Medical Center Joint Venture** (medical clinic). Memorandum to the Board from Stanley N. Garber, Investigator, Department of Permitting Services (DPS), notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (DLB/LLM, 5-0).

5. **CBA-1577, Petition of Stanley J. Nadonley, Trustee** (golf course and country club). Letter to the Board from Dino C. La Fiandra, Esquire, requesting a 60-day extension of time for the submission of the special exception modification request.

Action: Granted 90-day extension of time, (DLB/LLM, 5-0).

6. **CBA-1996 [S-221], Petition of John L. Sweeney** (private riding stable). Memorandum from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter from the special exception holder challenging the inspection.

Action: Schedule Show Cause Hearing, (AIF/AMC, 5-0).

7. **CBA-2277 [CBA-2695], Petition of Musser Brother Builders, Inc.** (animal hospital and veterinary clinic). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting that the special exception be revoked as the use is permitted in the zone.

Action: Revoked special exception as use is permitted in the zone, (LLM/AMC, 5-0).

8. **CBA-2408, Marion B. and Leonard H. Brody** (private riding stable). Letter from the property owner, Saeed Rashan, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AMC/AIF, 5-0).

9. **S-26, Petition of Dr. and Mrs. Morton D. Fielding** (private riding stable). Memorandum from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter from the property owners, Renate T. and Nelson S. Funk, confirming the abandonment.

Action: Revoked special exception as abandoned, (LLM/AIF, 5-0).

10. **S-92 [S-92-A, S-240], Petition of YMCA of Metropolitan Washington** (eleemosynary and philanthropic institution). Letter to the Board from Todd D. Brown, Esquire, requesting an administrative modification.

Action: Granted administrative modification, (DLB/LLM, 5-0).

11. **S-712, Petition of Raymond M. Hertz** (non-resident professional offices). Memorandum from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (LLM/AMC, 5-0).

12. **S-802, Petition of Wallace P. and Dallas Marie Berch** (antique shop). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AIF/LLM, 5-0).

13. **S-973, Petition of Abraham and Leokadia B. Silverstein** (accessory apartment). Letter from the petitioner notifying the Board that special exception was never implemented and requesting that it be revoked.

Action: Revoked special exception as abandoned, (LLM/DLB, 5-0).

14. **S-1117, Petition of Bernard and Jeanette S. Black** (accessory apartment). Letter to the Board from special exception holder that it has been abandoned and requesting that it be revoked.

Action: Special exception revoked in 1986; no action required by the Board.

15. **S-1174, Petition of David D. Steigerwald** (accessory apartment). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AMC/AIF, 5-0).

16. **S-1448, Petition of Velma G. Guinn** (accessory apartment). Letter to the Board from the property owner, Peter Levine, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (LLM/DLB, 5-0).

17. **S-1570, Petition of John P. Adams** (landscape contractor). Memorandum from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (AMC/LLM, 5-0).

18. **S-1772, Petition of Gregory Tasse**y (private riding stable). Memorandum from Stanley N. Garber, Investigator, DPS, to determine whether the special exception should be reinstated.

Action: (1) Re-opened the record to include Mr. Garber's memorandum; (2) no action required by the Board, (DLB/LLM, 5-0).

19. **S-1850, Petition of Leon and Phyllis Strauss** (accessory apartment). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AIF/LLM, 5-0).

20. **S-1958, Petition of Taco Bell Corporation** (drive-in restaurant). Memorandum to the Board from Stanley N. Garber, Investigator, and DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (LLM/AMC, 5-0).

21. **S-2070, Petition of Johnson Enterprises** (wholesale/retail nursery and garden center). Letter of clarification from Kevin P. Fay, Esquire, requested by the Board.

Action: (1) Re-opened the record to include Mr. Fay's letter; (2) no action required by the Board, (LLM/DLB, 5-0).

22. **S-2239, Petition of Laytonsville Veterinary Practice** (veterinary hospital and animal boarding). Letter to the Board from the petitioner requesting an administrative modification.

Action: (1) Re-opened the record to include the petitioner's letter; (2) Board action subject to actual subdivision of the property; (3) subdivision of the property will modify description of the subject property, consensus.

23. **S-2505, Petition of KFC of America, Inc.** (drive-in restaurant). Letter to the Board from Emily J. Vaias, Esquire, requesting that the special exception be withdrawn without prejudice.

Action: Dismissed special exception without prejudice, (AIF/LLM, 5-0).

24. **S-2523, Petition of Maricela Ali** (accessory apartment). Letter from special exception applicant withdrawing the special exception and requesting a refund of the filing fee.

Action: (1) Dismissed special exception as withdrawn; (2) refund 50% of the filing fee, (LLM/DLB, 5-0).

DECISION ITEM:

25. Resolution to Refer Cases Nos. CBA-969-A, CBA-1201/1201-A, S-411-D, S-1224-A, S-2524, S-2525, S-2526, S-2527, S-2528, S-2529, S-2530, S-2531, S-2532, S-2533, S-2534, S-2535, S-2536, S-2537, S-2538, S-2539 to the Office of the Hearing Examiner.

Action: Referred cases to the Office of the Hearing Examiner, (DLB/LLM, 5-0).

DEPARTMENTAL REQUEST:

26. Memorandum from Susan Scala-Demby, Permitting Services Manager, DPS, requesting that the Board include an inspection requirement to the special exception conditions.

Action: (1) Board to request id tags be included to identify all plant materials included on special exception landscape plans; (2) DPS request to be forwarded to MNCPPC technical staff.

INFORMATION ITEM:

27. **S-570, Petition of Izaak Walton League** (rifle range). Letter from M. Ray Shaver, Chairman, Rifle/Pistol Range Committee, submitting a range approval and sound certificate into the record.

Action: (1) Re-opened the record to include certificates; (2) case referred to the Office of the Hearing Examiner for annual review hearing, (LLM/DLB, 5-0).

PENDING ITEMS:

28. **CBA-1692 [S-719, S-720, S-721], Petition of Karl W. Corby, Jr., et al** (medical practitioner's office). Letter to the Board from Stanley N. Garber, Zoning Investigator, DPS, notifying the Board of the special exceptions' outstanding Notices of Violation. Item deferred to a future worksession pending clarification from DPS.

29. **CBA-2640, Petition of The National Capital Area Council – Boy Scouts of America** (eleemosynary and philanthropic institution). Letter to the Board from Patricia A. Harris, Esquire, requesting an administrative modification. Board requested a review and recommendation from M-NCPPC.

30. **CBA-2986, Petition of Leafy House, Inc.** (housing for the elderly). Letter to the Board from Chris A. Fremuth, R.L.A., requesting an administrative modification. (Large exhibit: site, landscape and lighting plan). Item deferred for review of the landscape/lighting plan and the parking plan by M-NCPPC.

31. **S-569, [CBA-3051, S95], Petition of C. O. and M. E. Bland** (horticultural nursery). Letter of complaint to the Board from David C. Gardner, Esquire, regarding the special exception use. Board requests DPS inspection of the special exception property.

PENDING ITEMS (continued):

32. **S-1547, Petition of Precision Tune** (automobile tune-up and service shop). Letter to the Board from Sa Kwon, owner, requesting a transfer of the special exception. Board granted the transfer of the special exception and requested DPS to inspect the special exception for compliance with landscape and lighting plan.
33. **S-1716, Petition of Sports Fun, Inc.** (commercial recreational or entertainment establishment). Letter to the Board from David and Nancy Ris, current property owners, notifying the Board that the special exception has been abandoned and requesting that the special exception be revoked. Item deferred. Board to request DPS correction of special exception address.
34. **S-1751, Petition of Hanna D. Saah** (boardinghouse). Memorandum to the Board from Stanley N. Garber, Zoning Investigator, DPS, regarding the inspection of the special exception. Letter will be sent to the petitioner to determine what future action he proposes for the special exception property.
35. **S-1944-B [S-1944], Petition of Four Streams Limited Partnership** (golf course in the RDT zone). Letter to the Board dated 5/15/02, from C. Robert Dalrymple, Esquire, with an update of the timetable for the proposed text amendment.
36. **S-2093, Petition of Bell Atlantic Mobile Systems, Inc.** (public utility structure). Letter to the Board from Sue Swett, Real Estate Department, Pinnacle Towers Inc., requesting a transfer of the special exception. Board requests additional information.
37. **S-2435, Petition of Saiful and Jannatul B. Islam** (accessory apartment). Order from the Circuit Court reversing the Board's Opinion. Board requested DHCA inspection of the special exception and the item will return to a future Worksession to determine if a public hearing is required.

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